

## **REMARKS**

Claims 13, 17 to 19, and 21 are pending and under consideration in the application. Claim 13 has been amended to include the language "human insulin-like growth factor". Support for that amendment is found in the specification, e.g., at page 6, lines 14 to 22. That amendment adds no new matter. Applicants have also amended claim 13 to change the language "which increases the insulin sensitivity of the human" to the language "wherein the agent increases the insulin sensitivity of the human." That amendment merely clarifies certain properties of the agent and adds no new matter.

### **Interview Disclosure Statement**

The Examiner refused to consider the Information Disclosure Statements filed on August 9, 2006, and November 17, 2006, because those Information Disclosure Statements were not submitted with copies of the listed documents. See Action at page 2. Applicants assert that copies of the listed documents were not required. Specifically, copies of the listed documents were previously submitted in U.S. Patent Application No. 09/394,712 ("the '712 application"). The present application is a continuation of the '712 application. In the Information Disclosure Statements, applicants identified the '712 application and indicated that they were relying on the '712 application for the benefits provided in 35 U.S.C. § 120. Thus, applicants complied with requirements of 37 C.F.R. § 1.98(d)(1), and copies of the listed documents were not required to be submitted with the Information Disclosure Statements.

In any event, solely to expedite prosecution, applicants will provide the Examiner with courtesy copies of the documents on the Information Disclosure Statements.

Applicants request that the Examiner consider the documents listed on the Information Disclosure Statements and indicate that the documents were considered by making an appropriate notation on the Form PTO/SB/08 that accompanies each of those Information Disclosure Statements.

Rejection Under 35 U.S.C. § 112, First Paragraph, (Written Description)

The Examiner rejected claims 13 and 17 to 19 under 35 U.S.C. § 112, first paragraph, as allegedly lacking written description. Action at pages 3 to 5. Specifically, the Examiner alleged that “[t]he term (i.e. insulin-like growth factor) recited in claim 13 was not described in the specification and lacks the support from the instant disclosure.” See Action at page 4. Solely to expedite prosecution, and without acquiescing to the rejection, applicants have amended claim 13 to recite “human insulin-like growth factor.” Applicants reserve the right to pursue the language of claim 13 rejected by the Examiner in a related application. That amendment should obviate the Examiner’s rejection.

Applicants request reconsideration and withdrawal of the 35 U.S.C. § 112, first paragraph, rejection of claims 13 and 17 to 19.

Applicants respectfully assert that the application is in condition for allowance and request issuance of a Notice of Allowance. If the Examiner does not consider the

application to be in condition for allowance, applicants request that she call the undersigned at (650) 849-6658 to set up an interview.

If there is any fee due in connection with the filing of this Amendment and Response, please charge the fee to Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Dated: February 16, 2007

By: Lawrence L. Steen 36691  
for Michael R. Albrecht  
Reg. No. 54,956  
Customer No. 22,852